

1745  
\$



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PTO/SB/21 (6-98)  
Approved for use through 09/30/2000. OMB 0651-0031  
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	<b>Application Number</b>	09/873,139
	<b>Filing Date</b>	June 1, 2001
	<b>First Named Inventor</b>	John P. Scartozzi
	<b>Group Art Unit</b>	1745
	<b>Examiner Name</b>	
<b>Total Number of Pages in This Submission</b>	54	<b>Attorney Docket Number</b> AV1-040

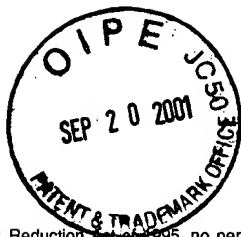
ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Additional Enclosure(s) (please identify below): See 1 in Addendum
Remarks		

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SEP 24 2001  
TC 1700

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	George G. Grigel; Wells, St. John et al.
Signature	
Date	Sept 11, 2001

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on this date: 9-11-2001			
Typed or printed name	Toni Kotzke JAIME M. WHITE		
Signature	jaime m. white	Date	9/11/01

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



PTO/SB/17 (12/99)  
Approved for use through 09/30/2000. OMB 0651-0032  
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# FEE TRANSMITTAL for FY 2000

Patent fees are subject to annual revision.  
Small Entity payments must be supported by a small entity statement,  
otherwise large entity fees must be paid. See Forms PTO/SB/09-12.  
See 37 C.F.R. §§ 1.27 and 1.28.

TOTAL AMOUNT OF PAYMENT (\$ ) 130.00

## Complete if Known

Application Number 09/873,139  
Filing Date June 1, 2001  
First Named Inventor John P. Scartozzi  
Examiner Name  
Group / Art Unit 1745  
Attorney Docket No. AV1-040

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SEP 24 2001

## METHOD OF PAYMENT (check one)

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number 23-0925

Deposit Account Name Wells, St. John et al.

☒ Charge Any Additional Fee Required  
Under 37 CFR §§ 1.16 and 1.17

2. ☒ Payment Enclosed:

☒ Check ☐ Money Order ☐ Other

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
101 690	201 345	Utility filing fee	
106 310	206 155	Design filing fee	
107 480	207 240	Plant filing fee	
108 690	208 345	Reissue filing fee	
114 150	214 75	Provisional filing fee	

SUBTOTAL (1) (\$ ) 0.00

### 2. EXTRA CLAIM FEES

Total Claims 0 - 20\*\* = 0 X Fee from below = 0  
Independent Claims 0 - 3\*\* = 0 X Fee Paid = 0  
Multiple Dependent = 0

\*\*or number previously paid, if greater; For Reissues, see below

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
103 18	203 9	Claims in excess of 20	
102 78	202 39	Independent claims in excess of 3	
104 260	204 130	Multiple dependent claim, if not paid	
109 78	209 39	** Reissue independent claims over original patent	
110 18	210 9	** Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$ ) 0.00

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	0.00
127 50	227 25	Surcharge - late provisional filing fee or cover sheet.	0.00
139 130	139 130	Non-English specification	0.00
147 2,520	147 2,520	For filing a request for reexamination	0.00
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	0.00
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	0.00
115 110	215 55	Extension for reply within first month	0.00
116 380	216 190	Extension for reply within second month	0.00
117 870	217 435	Extension for reply within third month	0.00
118 1,360	218 680	Extension for reply within fourth month	0.00
128 1,850	228 925	Extension for reply within fifth month	0.00
119 300	219 150	Notice of Appeal	0.00
120 300	220 150	Filing a brief in support of an appeal	0.00
121 260	221 130	Request for oral hearing	0.00
138 1,510	138 1,510	Petition to institute a public use proceeding	0.00
140 110	240 55	Petition to revive - unavoidable	0.00
141 1,210	241 605	Petition to revive - unintentional	0.00
142 1,210	242 605	Utility issue fee (or reissue)	0.00
143 430	243 215	Design issue fee	0.00
144 580	244 290	Plant issue fee	0.00
122 130	122 130	Petitions to the Commissioner	130.00
123 50	123 50	Petitions related to provisional applications	0.00
126 240	126 240	Submission of Information Disclosure Stmt	0.00
581 40	581 40	Recording each patent assignment per property (times number of properties)	0.00
146 690	246 345	Filing a submission after final rejection (37 CFR § 1.129(a))	0.00
149 690	249 345	For each additional invention to be examined (37 CFR § 1.129(b))	0.00
Other fee (specify)			0.00
Other fee (specify)			0.00

\* Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ ) 130.00

SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)	George G. Grigori	Registration No. (Attorney/Agent)	31,166
Signature		Telephone	
		Date	Sept 11, 2001

## WARNING:

Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

## Attachment to (PTO/SB/21) Transmittal Form (continued)

1. Return Postcard Receipt; Check; Response to Notice of Omitted Items; Copy of Notice of Omitted Items; Copy of Filing Receipt; Copy of Postcard filed June 1, 2001; Copy of Application (as filed)



June 1, 2001

AV1-040  
Avista Laboratories, Inc.

The stamp of the U.S. Patent and Trademark Office acknowledges receipt of the application for letters patent of the following:

Applicant: John P. Scartozzi et al.  
Titled: "A FUEL CELL POWER SYSTEM"

11000 U.S. PTO

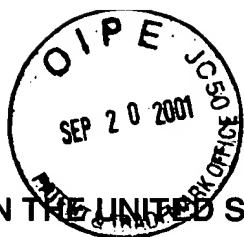
09/873139



06/01/01

1. Return Postcard Receipt.
2. A \$1,378.00 check.
3. PTO Utility Application Transmittal Form (PTO/SB/05)
4. Fee Transmittal Form (PTO/SB/17)
5. 42 pages of Specification, Claims and Abstract plus title page
6. Inventors Declaration (newly executed original).
7. 8 sheets of formal drawings (Figs. 1-8).
8. Assignment of the invention to Avista Laboratories, Inc., and Recordation Cover Sheet.
9. Information Disclosure Statement including PTO-1449 and cited references.

EL 465783872US



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No. .... 09/873,139  
Filing Date ..... June 1, 2001  
Inventor ..... John P. Scartozzi et al.  
Assignee ..... Avista Laboratories, Inc.  
Group Art Unit ..... 1745  
Examiner ..... Unknown  
Attorney's Docket No. .... AV1-040  
Title: Fuel Cell Power System

**RESPONSE TO NOTICE OF OMITTED ITEMS IN A NON-PROVISIONAL  
APPLICATION FILED UNDER 37 CFR §1.53(b)**

To: Assistant Commissioner for Patents  
Washington, D.C. 20231

From: George G. Grigel (Tel. 509-624-4276; Fax 509-838-3424)  
Wells, St. John, Roberts, Gregory & Matkin P.S.  
601 W. First Avenue, Suite 1300  
Spokane, WA 99201-3828

09/21/2001 MWOLDER1 00000018 09873139

01 FC:122

130.00 OP

**REMARKS**

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TC 1700

In response to the Notice of Omitted Items in a Non-Provisional Application filed under 37 CFR §1.53(b), a copy of which is attached and identified as Confirmation No. 3290, Applicant hereby Petitions to admit the evidence attached, that the item identified in the recent Office Communication as missing --page 30 of the specification-- was in fact received by the U.S. Patent and Trademark Office.

Applicant understands that the Petition fee provided herewith will be refunded if it is determined that the item was received by the USPTO.

Applicant by and through their attorneys, have provided herewith a copy of their return postcard date June 1, 2001 and which lists the enclosures supplied to the U.S. Patent and Trademark Office. These items include 42 pages of Specification, Claims, Abstract and Title Page.

Applicant has provided a copy of the Application that they have in their file and which bears Express Mail label number as provided with the original lodged application. Applicant's file copy includes page 30.

Yet further, Applicant's counsel states for the record that his signature appears on the return postcard. This signature indicates that counsel had inventoried the Application prior to lodging same in the U.S. Patent and Trademark Office, and the attorney found it complete.

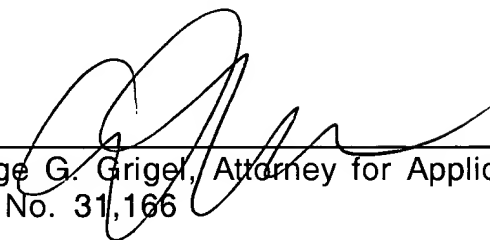
In view of the foregoing, Applicant believes that all documents were submitted to the Office, and that through mishandling at the Patent and Trademark Office, page 30 was lost. Accordingly, applicant by their counsel requests that the Office admit page 30, which is enclosed. Applicant further Petitions that this application be accorded the filing date of June 1, 2001 in accordance with the provisions of 37 CFR §1.10.

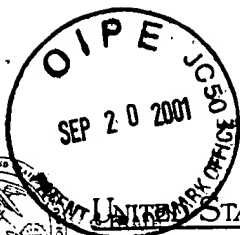
Applicant by and through their counsel would request that the Office telephone the attorneys in the event that a further telephone conference could expedite the prompt processing of the present Petition.

Respectfully submitted,

John P. Scartozzi et al.

Dated: Sept 11, 2001

By:   
George G. Grigel, Attorney for Applicant  
Reg. No. 31,166



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/873,139	06/01/2001	1745	1338	AV1-040	8	43	5

CONFIRMATION NO. 3290

021567

WELLS ST JOHN ROBERTS GREGORY AND MATKIN  
SUITE 1300  
601 W FIRST AVENUE  
SPOKANE, WA 992013828

## FILING RECEIPT



\*OC000000006421754\*

Date Mailed: 08/14/2001

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

John P. Scartozzi, Spokane, WA;  
Peter D. DeVries, Spokane, WA;

**COPY**

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted 08/13/2001

Projected Publication Date: To Be Determined - pending completion of Omitted Items

Non-Publication Request: No

Early Publication Request: No

## Title

Fuel cell power system

Preliminary Class

429





**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

**PLEASE NOTE the following information about the Filing Receipt:**

- The articles such as "a," "an" and "the" are not included as the first words in the title of an application. They are considered to be unnecessary to the understanding of the title.
- The words "new," "improved," "improvements in" or "relating to" are not included as first words in the title of an application because a patent application, by nature, is a new idea or improvement.
- The title may be truncated if it consists of more than 500 characters (letters and spaces combined).
- The docket number allows a maximum of 25 characters.
- If your application was submitted under 37 CFR 1.10, your filing date should be the "date in" found on the Express Mail label. If there is a discrepancy, you should submit a request for a corrected Filing Receipt along with a copy of the Express Mail label showing the "date in."
- The title is recorded in sentence case.

Any corrections that may need to be done to your Filing Receipt should be directed to:

Assistant Commissioner for Patents  
Office of Initial Patent Examination  
Customer Service Center  
Washington, DC 20231



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/873,139	06/01/2001	John P. Scartozzi	AV1-040

CONFIRMATION NO. 3290

021567  
WELLS ST JOHN ROBERTS GREGORY AND MATKIN  
SUITE 1300  
601 W FIRST AVENUE  
SPOKANE, WA 992013828

FORMALITIES LETTER



\*OC000000006421755\*

**COPY**

Date Mailed: 08/14/2001

**NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION****FILED UNDER 37 CFR 1.53(b)**

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Page(s) **pg. 30** of the specification (description and claims).

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

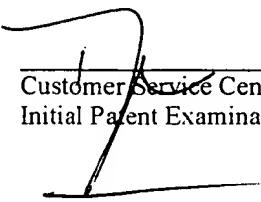
II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h)) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

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*A copy of this notice MUST be returned with the reply.*

  
Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY